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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/630,822 | 07/29/2003 | James N.L. Pedersen | 5224P001D | 8150 |

8791 7590 01/10/2005

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EXAMINER

KEASEL, ERIC S

| | |
|----------|--------------|
| ART UNIT | PAPER NUMBER |
|----------|--------------|

3754

DATE MAILED: 01/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/630,822

Applicant(s)

PEDERSEN ET AL.

Examiner

Eric Keasel

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 and 25-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 25-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on July 29, 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 7/29/2003.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement filed July 29, 2003 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each U.S. and foreign patent; each publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. The NPL documents have not been provided and the requirement of 37 CFR 1.98(d)(2) has not been met. It has been placed in the application file, but the non-complying information referred to therein has not been considered.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 3, 4, 6, 25, and 29 are rejected under 35 U.S.C. 102(b) as being anticipated by Brumm (US Patent Number 3,690,344).

Brumm discloses a valve (see Fig. 7) comprising: a support element (111) including a longitudinally extending flow path, at least a portion of the flow path extending along an axis of fluid flow; a flexible element (116) having an open state wherein the flow path is open, the flexible element deformable to a closed state wherein the flexible element interrupts the flow path to at least partially restrict fluid flow through the flow path; an actuating element (124)

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having a position wherein the flexible element is at the open state, the actuating element movable along the axis of fluid flow to another position wherein the actuating element deforms the flexible element to the closed state; and a coupling mechanism coupling the actuating element with the flexible element (the flange 114 engaging the recess in member 112); further comprising a generally cylindrical housing (82) to encase the support element, the flexible element, the actuating element, and the coupling mechanism, the cylindrical housing having an axis substantially concentric with the axis of fluid flow.

4. Claims 1, 4, 25, and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Linder et al. (US Patent Number 5,002,086).

Linder et al. disclose a valve comprising: a support element (12) including a longitudinally extending flow path (18), at least a portion of the flow path extending along an axis of fluid flow; a flexible element (46, 52) having an open state wherein the flow path is open, the flexible element deformable to a closed state wherein the flexible element interrupts the flow path to at least partially restrict fluid flow through the flow path; an actuating element (100, 96) having a position wherein the flexible element is at the open state, the actuating element movable along the axis of fluid flow to another position wherein the actuating element deforms the flexible element to the closed state; and a coupling mechanism (48, 50) coupling the actuating element with the flexible element; wherein the coupling mechanism comprising a pin (48), the pin coupled with a first mating aperture in the flexible element and further coupled with a second mating aperture in the actuating element.

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5. Claims 1, 2, 4, 5, 25, 27 and 28 are rejected under 35 U.S.C. 102(b) as being anticipated by Someya et al. (US Patent Number 5,906,353).

Someya et al. disclose a valve comprising: a support element (11) including a longitudinally extending flow path (the unnumbered portion between 12a and the valve member), at least a portion of the flow path extending along an axis of fluid flow; a flexible element (16) having an open state wherein the flow path is open, the flexible element deformable to a closed state wherein the flexible element interrupts the flow path to at least partially restrict fluid flow through the flow path; an actuating element (29) having a position wherein the flexible element is at the open state, the actuating element movable along the axis of fluid flow to another position wherein the actuating element deforms the flexible element to the closed state; and a coupling mechanism coupling the actuating element with the flexible element; further comprising a cam mechanism (27) slidably coupling the actuating element with the flexible element; and further comprising a biasing element (37) to bias the actuating element towards said another position.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various

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claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 2, 5, 27, and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brumm in view of Someya et al.

Brumm discloses a valve (see Fig. 7) comprising: a support element (111) including a longitudinally extending flow path, at least a portion of the flow path extending along an axis of fluid flow; a flexible element (116) having an open state wherein the flow path is open, the flexible element deformable to a closed state wherein the flexible element interrupts the flow path to at least partially restrict fluid flow through the flow path; an actuating element (124) having a position wherein the flexible element is at the open state, the actuating element movable along the axis of fluid flow to another position wherein the actuating element deforms the flexible element to the closed state; and a coupling mechanism coupling the actuating element with the flexible element (the flange 114 engaging the recess in member 112); further comprising a generally cylindrical housing (82) to encase the support element, the flexible element, the actuating element, and the coupling mechanism, the cylindrical housing having an axis substantially concentric with the axis of fluid flow. Brumm is silent as to the details of the actuator. Someya et al. disclose a spring-biased cam actuator used in a similar reciprocating valve with a flexible member. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have used the spring of Someya et al. to bias the valve to a

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closed position and it would have been obvious to one having ordinary skill in the art at the time the invention was made to have used the cam mechanism of Someya et al. in order to have the valve stem move by a displacement smaller than the unit displacement of the operation member as taught by Someya et al.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric Keasel whose telephone number is (571) 272-4929. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Mar can be reached on (571) 272-4906. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

 STAN 2005
Eric Keasel
Primary Examiner
Art Unit 3754